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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,632	07/25/2005	Mikael Hillforth	36211	6374

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EXAMINER	
VALENTI, ANDREA M	

ART UNIT	PAPER NUMBER
3643	

MAIL DATE	DELIVERY MODE
08/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/537,632	HILLFORTH, MIKAEL	
	Examiner	Art Unit	
	ANDREA M. VALENTI	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 May 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 4-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 4-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,673,647 to Pratt in view of U.S. Patent No. 6,625,302 to Kalscheur et al.

Regarding Claim 1, Pratt teaches an apparatus for detecting an animal having a body part and a head part (Pratt abstract, cattle), comprising: an animal passage extending in a transport direction, said passage being defined by a first enclosure member and a second enclosure member (Pratt Fig. 11A), which members are arranged on a respective side of the passage and extend substantially in parallel to said transport direction, and a sensor device which is arranged to sense the animal in the passage (Pratt Fig. 20A and 20B and Col.33 line 48-67), characterized in that wherein the sensor device is arranged to sense a parameter regarding measurements (Pratt Col. 6 line 38, line 62) at a determined position in the passage. Pratt is silent on explicitly teaching that the parameter is related to the width of the animal in a predetermined direction. However, Kalscheur teaches an apparatus for measuring the width of an animal held in an animal passage at a predetermined position (Kalscheur Col. 8 line 16) using sensors (Kalscheur #104, 106). It would have been obvious to one

of ordinary skill in the art to modify the teachings of Pratt with the teachings of Kalscheur at the time of the invention for accurate measurement of the animal as taught by Kalscheur. The modification is merely the application of a known technique to a known device ready for improvement to yield predictable results.

Pratt as modified teaches wherein the sensor device is arranged to produce a signal when the parameter indicates that the width of the animal is less than a predetermined value at the predetermined position (Pratt Col. 7 line 30-35 teaches that based on the size of the animal it is categorized and ends up in different pens so the signal produced by the sensor device is that the animal ends up in a particular pen; Col.44 line 40, applicant has not claimed the condition or what type of signal and Pratt teaches a visual signal by sorting into various lots based on where the animal falls in relation to a predetermined parameter e.g. weight, size, ownership, etc).

Regarding Claim 7, Pratt as modified teaches the sensor device comprises at least a first sensor and a second sensor (Kalscheur #104, 106; Fig.3), wherein the first sensor is arranged to sense the presence of the animal at a first point of the passage and wherein the second sensor is arranged to sense the presence of the animal at a second point of the passage (Pratt Fig. 11A #384, 386, 388; Kalscheur Fig. 3 #104, 106).

Regarding Claim 9, Pratt as modified teaches the first point is located in the proximity of the first enclosure member whereas the second point is located in the proximity of the second enclosure member (Pratt Fig. 11A and 12A; Kalscheur Fig. 1 #104, 106).

Regarding Claim 11, Pratt as modified teaches a control member connected to the sensor device (Pratt abstract line 4, computer system).

Regarding Claim 12, Pratt as modified teaches the control member (Pratt abstract line 4, computer system) is ***arranged*** to count the animals passing the animal passage in response to the sensing of the sensor device.

Regarding Claims 13, 14, 15 and 16-20, Pratt as modified teaches a gate device (Pratt Fig. 2 and Fig. 5) arranged in the passage to take one of an open position and a closed position.

Regarding Claim 10, Pratt as modified is silent on the first sensor and the second sensor both are provided above the passage to sense the animal passing below the respective first and second sensors. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Pratt at the time of the invention since the modification is merely shifting the location of a known elements performing the same intended function for an efficient use of space, to prevent from damage caused by the animal kicking and for more accurate sensing [*In re Japiske*, 181 F.2d 1019, 1023, 86 USPQ 70, 73 (CCPA 1950)].

Regarding Claim 8, Pratt as modified appears to teach the first point and the second point are both located at the determined position with regard to the transport direction but spaced apart from each other with a distance, wherein said distance is larger than the width of the head part, but us silent on the width being smaller than the width of the body part of an animal of a normal size to be guided through the animal passage (Kalscheur Fig. 1 #104, 106), but is silent on explicitly teaching the spacing.

However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Pratt at the time of the invention since the modification is merely a shift in location of a known element performing in the same intended function in a more confined space [*In re Japiske*, 181 F.2d 1019, 1023, 86 USPQ 70, 73 (CCPA 1950)].

Regarding Claims 4, 5 and 6, Pratt as modified teaches measuring, wherein the determined direction is a substantially vertical direction; determined direction is a substantially vertically downward direction; determined direction is a substantially horizontal direction (Kalscheur Fig. 1 #140, 106)

Response to Arguments

Applicant's arguments with respect to claims 1, 4-20 have been considered but are moot in view of the new ground(s) of rejection.

The examiner maintains that applicant's claim language regarding the signal produced when the animal is undersize is broad in nature. Applicant has not claimed if it is a visual or audible signal, e.g. an alarm sound or a light. The mere fact that the animal of a particular size ends up in a particular pen because of the measurement data collect by the sensors is considered to be a signal by the examiner. It is maintained that the sensors of Pratt as modified by Kalscheur (Kalscheur #104, 106) are "arranged to produce a signal".

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREA M. VALENTI whose telephone number is (571)272-6895. The examiner can normally be reached on 6:00am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrea M. Valenti/
Primary Examiner, Art Unit 3643

31 July 2008